

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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MARIE K. SHARONANN and MARK D.  
MITCHELL,

UNPUBLISHED  
March 10, 2011

Plaintiffs,

and

MELVA LOURENE ABELSON, ROBERT L.  
AYERS, ELAINE E. AYERS, VERONICA  
BACHMAN, MARC W. BALLARD, WILLIAM  
B. BALLARD, CHARLENE H. BERRY,  
WILLIAM D. BOWEN, DIANE M. CARLISLE,  
HILMA V. CLIFFORD, PAMELA CLIFFORD,  
BARRY G. COTTEE, SHARON R. COTTEE,  
ODY A. COTTEE, MICHAEL J. COTTEE,  
LEONARD P. COUSINO, PAULA COWALL,  
ELAINE ELMORE, FLORA B. ESMAN, DAVID  
J. GLASEL, LINDA L. GLASEL, CAROLE J.  
GLASEL, JACK A. GLASEL, ROXINE HEINZE,  
JACOB W. HEISEL, LUTHER N. HEISEL,  
DIANE G. HERDRICH, SUSAN K. HOADLEY,  
TIMOTHY A. HOADLEY, K. SCOTT JONES,  
WENDY, JONES, JEREMY LANGE, RICHARD  
O. LANGE, JUDY K. LANGE, STEPHEN W.  
LANGE, BETTY LEEDS, CAROL L.  
MITCHELL, LORINNE K. POMILLIA, JOHN J.  
POMILLIA, JOHN QUINN, FARRELL R.  
THOMAS, LINDA C. THOMAS, MARSHALL  
VINSON, ELIZABETH L. WAFFLE, TERRY  
WARNER, VIOLET WARNER, SHARON  
WELLINGTON, JOHN WELLINGTON, HAZEL  
WHITMAN, LORENE F. WHITMAN, SETH  
WINEINGER, GARRY D. ZELLERS, JOHN J.  
BROZ, MELVIN GRAY, DEBRA GRAY, JOHN  
MICHAEL HAYES, DAVID KELLY, A. R.  
KRISHNAN, RAYMOND LOSI, ASHA  
MANOHARAN, GOVINDA SDASIVAN,  
PAMELA SEGredo, KIRK SCHULTZ, MARK  
SPAULDING, DOUGLAS P. TULL, and LORI  
TULL,

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Plaintiffs-Appellees,

V

W.H.I.C.-USA, INC., WORLDWIDE HEALTH  
IMPROVEMENT COMPANY, SYMBIOTIC  
TRAINING INSTITUTE, and ERNEST ADAM  
CSOLKOVITS,

No. 295800  
Oakland Circuit Court  
LC No. 2005-066885-CK

Defendants-Appellants.

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Before: SAWYER, P.J., and MARKEY and FORT HOOD, JJ.

PER CURIAM.

Defendants appeal as of right from the trial court's judgment in favor of plaintiffs, confirming an arbitration award. We affirm.

The trial court's decision to enforce, vacate, or modify an arbitration award is reviewed de novo. *Tokar v Albery*, 258 Mich App 350, 352; 671 NW2d 139 (2003). Arbitration awards are given great deference, and courts have stated unequivocally that they should not be lightly set aside. *Bell v Seabury*, 243 Mich App 413, 421-422; 622 NW2d 347 (2000). The Court's role in reviewing an arbitrator's decision is limited, and we may vacate an award only under narrowly defined circumstances. *Id.* at 422 n 4. A court may not review an arbitrator's factual findings or the merits of the decision. *Port Huron Area School Dist v Port Huron Ed Ass'n*, 426 Mich 143, 150; 393 NW2d 811 (1986). The allegation that the arbitrator exceeded his power must be carefully reviewed in order to ensure that the assertion is not merely a ruse to induce the court to review the merits of the decision. *Gordon Sel-way, Inc v Spence Bros, Inc*, 438 Mich 488, 497; 475 NW2d 704 (1991). Where it is readily apparent from the face of the award that the arbitrator was led to the wrong conclusion through an error at law and that, but for such error, a substantially different award would have been rendered, the award and decision will be set aside. *Saveski v Tiseo Architects, Inc*, 261 Mich App 553, 555; 682 NW2d 542 (2004). However, in many cases, the alleged error committed by the arbitrator will be equally attributable to improper or unwarranted factual findings as to alleged errors of law. *Detroit Auto Inter-Insurance Exchange v Gavin*, 416 Mich 407, 429; 331 NW2d 418 (1982). "In such cases the award should be upheld since the alleged error of law cannot be shown with the requisite certainty to have been the essential basis for the challenged award and the arbitrator's findings of fact are unreviewable." *Id.*

A reviewing court cannot engage in contract interpretation because it is an issue for the arbitrator to resolve. *Ann Arbor v AFSCME Local 369*, 284 Mich App 126, 144; 771 NW2d 843 (2009). When the arbitration agreement does not expressly limit the arbitrator's power in some manner, courts are reluctant to vacate or modify the award. *Id.* Rather the issue becomes whether the award was beyond the contractual authority of the arbitrator. *Id.* Any error of law must be discernible from the face of the award itself. *Ann Arbor v AFSCME Local 369*, 284

Mich App 126, 144; 771 NW2d 843 (2009). Stated otherwise, a legal error must be plainly evident because the court will not examine the arbitrator's mental path leading to the award. *Id.* Judicial review effectively ceases if the arbitrator did not disregard the terms of his employment. *Ann Arbor*, 284 Mich App at 144. This Court may not overturn the arbitrator's decision even if convinced that the arbitrator committed a serious error as long as the arbitrator arguably construed or applied the contract and acted within the scope of his authority. *Id.*

In the present case, defendants' statement of the issue alleged that the arbitrator exceeded his authority. Specifically, defendants alleged that the arbitrator committed errors at law by ordering individual personal liability, by finding that the individual plaintiffs were the real parties in interest when they were not named in the contracts, by finding that the proofs to support fraudulent misrepresentation had been established, by awarding damages for a violation of franchise law, and by awarding unwarranted damages.<sup>1</sup>

The challenges raised by defendants are without merit. Although defendants characterize the arbitrator's ruling as commissions of errors at law, a review of the brief and arbitration award reveals that the challenged rulings are premised on underlying factual findings. Findings of fact are unreviewable. *Gavin*, 416 Mich at 429. Moreover, there is no error of law apparent from the face of the award itself. *Ann Arbor*, 284 Mich App at 144.<sup>2</sup>

Affirmed.

/s/ David H. Sawyer  
/s/ Jane E. Markey  
/s/ Karen M. Fort Hood

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<sup>1</sup> Defendants also alleged that the arbitrator committed an error at law by finding a cause of action for both breach of contract and unjust enrichment. However, a review of the arbitrator's decision reveals that he dismissed counts III, IV, and VII, finding them to be duplicative and unnecessary. Therefore, defendant's challenge to the ruling regarding unjust enrichment (count VII) is without merit.

<sup>2</sup> In the statement of questions presented, defendants alleged that plaintiffs admitted that defendants had not committed fraud in post-arbitration proceedings. Appellate review is limited to the lower court record, MCR 7.210(A)(1), and there is no record evidence of any such admission. Therefore, this challenge does not provide defendants with appellate relief.